

## Message Text

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ACTION IO-13

INFO OCT-01 AF-08 ARA-06 EA-07 EUR-12 NEA-10 ACDA-07  
CIAE-00 DODE-00 PM-04 INR-07 L-03 NSAE-00 NASA-01  
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R 072151Z APR 77  
FM USMISSION USUN NEW YORK  
TO SECSTATE WASHDC 3099  
INFO AMEMBASSY MOSCOW

CONFIDENTIAL SECTION 1 OF 2 USUN 1049

E.O. 11652: GDS  
TAGS: TSPA, AORG, UN, ETEL  
SUBJECT: OUTER SPACE LEGAL SUBCOMMITTEE - APRIL 5, 1977

REF: A) USUN 1010; B) USUN 975 AND 992; C) USUN 1035

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1. SUMMARY: KENYA ADDRESSED LEGAL SUBCOMMITTEE (LSC) ON DEFINITION/DELIMITATION AND GEOSTATIONARY ORBIT ISSUES. WORKING GROUP (WG) II ON DIRECT BROADCASTING SATELLITES (DBS) COMPLETED WORK ON BRACKETED PRINCIPLE CONCERNING CONSULTATIONS AND AGREEMENT WITHOUT REACHING FINAL AGREEMENT, BUT WAS UNABLE TO DECIDE HOW TO HANDLE DRAFT PREAMBLE FOR PURPOSES OF ITS REPORT. WG-I ON MOON TREATY ADOPTED DRAFT REPORT. SHARP DISAGREEMENT AROSE IN WG-III ON REMOTE SENSING OVER COMMON ELEMENT/DRAFT PRINCIPLE PROCEDURE AS WELL AS PROPOSED PRINCIPLE ON SOVEREIGNTY OVER NATURAL RESOURCES AND INFORMATION. END SUMMARY.

2. DEFINITION/DELIMITATION.LSC CONTINUED ITS CONSIDERATION OF THE DEFINITION/DELIMITATION ITEM IN PLENARY SESSION APRIL 5, A.M., WITH KENYA (SIMANI) THE ONLY DEL MAKING A STATEMENT. HE URGED LSC TO PROCEED AS CONFIDENTIAL

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EXPEDITIOUSLY AS POSSIBLE WITH THE "NOW CRITICAL" TASK OF DELIMITING AND DEFINING OUTER SPACE, IN ORDER TO LAY A SOUND FRAMEWORK FOR SPACE ACTIVITIES, AND HE SUGGESTED THAT THE ITEM SHOULD BE REFERRED TO THE SCIENTIFIC AND TECHNICAL SUBCOMMITTEE. HE THEN REMARKED AT LENGTH ON THE QUESTION OF GEOSTATIONARY ORBIT (GSO), STATING THAT THE "SPECIAL POSITION" AND "PARTICULAR CONCERNS" OF THE EQUATORIAL STATES MADE IT NECESSARY TO REVIEW THE QUESTION IN ORDER TO AVOID A SITUATION OF "UNFAIR ADVANTAGE." HE STATED THAT KENYA FULLY SUBSCRIBES

TO THE DECEMBER 1976 BOGOTA DECLARATION AND THAT THE  
RIGHT OF EQUATORIAL STATES TO REQUIRE "PRIOR CONSENT"  
FOR USE OF THE GSO MUST BE RECOGNIZED. HE CONCLUDED  
WITH BRIEF REMARK THAT LUNAR RESOURCES SHOULD BE EXPLOITED  
"ONLY FOR THE BENEFIT OF THE WORLD COMMUNITY," AND THAT  
REMOTE SENSING ACTIVITIES SHOULD BE CONDUCTED ONLY  
WITH THE PRIOR CONSENT AND CONSULTATION OF THE SENSED  
STATES.

3. SOVDEL (MAIORSKY) REFERRED TO HIS PROPOSED DRAFT  
UNGA RES OBSERVING 10TH ANNIVERSARY OF THE OUTER SPACE  
TREATY (REF A); NOTING THE ABSENCE OF ADVERSE COMMENT,  
HE EXPRESSED HOPE THAT LSC WOULD RECOMMEND THE DRAFT  
RESOLUTION IN ITS REPORT TO THE PARENT COMMITTEE.  
MEXICO, GDR AND ARGENTINA INDICATED THEIR SUPPORT  
FOR THE SOVIET PROPOSAL AND OFFERED SOME AMENDMENTS  
WHICH WERE ACCEPTED. NO DELS SPOKE IN OPPOSITION.

4. BEFORE ADJOURNING THE LSC MEETING, CHAIRMAN WYZNER  
REFERRED TO THE 1971 "ROTATION PRINCIPLE" ACCORDING  
TO WHICH LSC MEETINGS ALTERNATE ANNUALLY BETWEEN  
GENEVA AND NEW YORK, AND IN THE ABSENCE OF ANY DISSENT  
DECLARED A CONSENSUS TO CONTINUE THE EXISTING ARRANGEMENT  
IN THE 1978 SCHEDULE.

5. DBS.WG-II ON DBS THEN CONVENED TO REVIEW DRAFT  
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PRINCIPLE X ON CONSULTATIONS AND AGREEMENT (REFTELS  
A AND B). CHAIRMAN TUEK SUGGESTED MINOR DRAFTING  
CHANGES TO MAKE TEXT SOMEWHAT CLEARER FOR PURPOSES  
OF WG REPORT. WITH ADDITIONAL SUGGESTIONS FROM DELS,  
WORK ON THIS TEXT WAS CONCLUDED. ENTIRE DRAFT PRINCIPLE  
REMAINS IN BRACKETS AS FOLLOWS:

6. QUOTE (BRACKETS) (BRACKETS) A (BRACKETS) DIRECT TELEVISION  
BROADCASTING (BRACKETS) SATELLITE SERVICE (BRACKETS)  
SPECIFICALLY DIRECTED AT A FOREIGN STATE (BRACKETS),  
IN THOSE CASES IN WHICH THE COVERAGE OF THAT STATE IS PER-  
MITTED UNDER THE RELEVANT INSTRUMENTS OF THE ITU,  
(BRACKETS) SHALL BE BASED ON APPROPRIATE AGREEMENTS AND/OR  
ARRANGEMENTS BETWEEN THE BROADCASTING AND RECEIVING  
STATES (BRACKETS) OR THE BROADCASTING ENTITIES DULY  
AUTHORIZED BY THE RESPECTIVE STATES (BRACKETS), IN  
ORDER TO FACILITATE THE FREER AND WIDER DISSEMINATION OF  
INFORMATION OF ALL KINDS AND TO ENCOURAGE CO-OPERATION IN  
THE FIELD OF INFORMATION AND THE EXCHANGE OF INFORMATION  
WITH OTHER COUNTRIES.

FOR THAT PURPOSE (BRACKETS) IN THOSE CASES IN WHICH THE  
COVERAGE OF THAT STATE IS PERMITTED UNDER THE RELEVANT  
INSTRUMENTS OF THE ITU, (BRACKETS) A STATE WHICH PROPOSES

TO ESTABLISH OR AUTHORIZE THE ESTABLISHMENT OF A DIRECT  
TELEVISION BROADCASTING (BRACKETS) SERVICE (BRACKETS) BY  
MEANS OF ARTIFICIAL EARTH SATELLITES SPECIFICALLY DIRECTED  
AT A FOREIGN STATE SHALL WITHOUT DELAY NOTIFY THAT STATE  
OF SUCH INTENTION AND SHALL ENTER INTO CONSULTATIONS WITH  
THAT STATE IF THE LATTER SO REQUESTS.

NO SUCH AGREEMENTS AND/OR ARRANGEMENTS SHALL BE REQUIRED  
WITH RESPECT TO THE OVERSPILL OF THE RADIATION OF THE  
SATELLITE SIGNAL WITHIN THE LIMITS ESTABLISHED UNDER THE  
RELEVANT INSTRUMENTS OF THE ITU.(BRACKETS) UNQUOTE

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7. WG-II THEN TURNED TO CONSIDERATION OF THE VARIOUS  
POSSIBILITIES IN DEALING WITH THE PREAMBLE TO DRAFT  
DBS PRINCIPLES AND PROMPTLY STALLED IN DISAGREEMENT.  
IN ITS PRESENT WORKING DRAFT, PREAMBLE OMITS PARA 2  
OF CANADA/SWEDEN DRAFT (FREE DISSEMINATION AND BROADER  
EXCHANGE OF INFORMATION AND IDEAS) IN FAVOR OF AN ELLIPSIS  
TO INDICATE ABSENCE OF AGREED LANGUAGE. CHIEF BONE OF CON-  
TENTION IN WG CONCERNED THE PROPOSED INCORPORATION AT  
THAT POINT OF A SINGLE PARA. COMBINING SUBSTANCE OF TWO  
TEXTS PREVIOUSLY TABLED BY MEXICO (ONE REQUIRING DBS TO  
BE CONDUCTED WITH STRICT RESPECT FOR STATE SOVEREIGNTY  
AND NON-INTERFERENCE IN INTERNAL AFFAIRS, THE OTHER REFERRING  
TO THE "LOFTY GOALS OF SECURING INTERNATIONAL PEACE AND  
FRIENDSHIP AMONG PEOPLES") WITH LANGUAGE REFERRING TO  
FREE FLOW OF INFORMATION. UK INTRODUCED ITS STRONGER STATEMENT  
ON FREE FLOW (SEE PARA 5 OF REFTEL C) AS ALTERNATIVE TO  
PARA 2 OF CANADA/SWEDEN DRAFT. DESPITE SEVERAL ATTEMPTS  
AT COMPROMISE FORMULATIONS, NO AGREEMENT COULD BE REACHED.  
THERE WAS FURTHER DISAGREEMENT ON WHETHER TO REPORT THE  
DRAFT DBS PRINCIPLES TO THE PARENT COMMITTEE AND UNGA  
ENTIRELY WITHOUT PREAMBLE (SUPPORTED BY MEXICO AND USSR),  
WHETHER TO INCLUDE PREAMBLE WITH ONLY AN ELLIPSIS TO  
INDICATE OMITTED PARA (AUSTRIAN SUGGESTION), OR WHETHER  
TO ADD FOOTNOTE INDICATING THE VARIOUS SUGGESTIONS IN REGARD  
TO THE OMITTED PARAGRAPH (BRAZILIAN IDEA). MEETING ADJOURNED  
WITHOUT DECISION.

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INFO OCT-01 AF-10 ARA-06 EA-07 EUR-12 NEA-10 ISO-00  
ACDA-07 CIAE-00 DODE-00 PM-04 INR-07 L-03 NSAE-00  
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8. MOON TREATY. IN AFTERNOON SESSION, WG-I REVIEWED AND ADOPTED A BRIEF, FOUR PARA DRAFT REPORT, WHICH STATES THAT THE QUESTION OF A LEGAL REGIME FOR THE NATURAL RESOURCES OF THE MOON REMAINS THE KEY ISSUE. DEBATE ENLIVENED BY BRIEF SPARRING BETWEEN EGYPT AND USSR.

9. REMOTE SENSING. WG III THEN MET TO CONSIDER DRAFT REPORT INFORMALLY CIRCULATED IN A.M. BY CHAIRMAN TUERK. USSR QUICKLY PROVOKED CONTROVERSY BY CHALLENGING NUMEROUS REFERENCES TO USE OF TWO-STEP COMMON ELEMENT/DRAFT PRINCIPLE PROCEDURE IN THE WG'S DELIBERATIONS, ARGUING THAT (A) PROCEDURE NOT REQUIRED BY GA, ONLY SUGGESTED, AND (B) DRAFT PRINCIPLES MAY BE TABLED, DISCUSSED AND ADOPTED WITHOUT FIRST FORMULATING COMMON ELEMENTS. US, UK AND OTHER DELS OPPOSED DELETION OF SUCH REFERENCES AND URGED THAT REPORT SHOULD FAITHFULLY INDICATE WHAT ACTUALLY HAPPENED.

10. THIS LED DIRECTLY TO A CONTINUATION OF YESTERDAY'S SHARP DISAGREEMENT (REFTEL C) OVER PROPOSED PRINCIPLE ON PERMANENT SOVEREIGNTY OVER NATURAL RESOURCES AND INFORMATION PERTAINING THERETO. DRAFT REPORT INCLUDED THIS PROPOSAL AS AN UNNUMBERED PRINCIPLE (IN BRACKETS) IMMEDIATELY FOLLOWING THE ELEVEN TENTATIVELY AGREED

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PRINCIPLES, AND TEXT OF DRAFT REPORT INDICATED THAT SUCH A DRAFT PRINCIPLE COMMANDED A SUBSTANTIAL DEGREE OF SUPPORT. US AND UK TOOK STRENUEOUS EXCEPTION TO THIS APPROACH FOR REASONS DESCRIBED REFTEL (C). DURING COURSE OF THIS LONG AND INCREASINGLY DISAGREEABLE DEBATE, USDEL MADE SEVERAL ATTEMPTS TO ACHIEVE ACCEPTABLE COMPROMISE WHICH WOULD SUFFICIENTLY SEPARATE THE PROPOSAL FROM OTHER PRINCIPLES, SUGGESTING IT COULD BE INCLUDED IN TEXT OF REPORT OR MORE PREFERABLY AS SEPARATE APPENDIX. ASIDE FROM UK (WHICH ULTIMATELY FELL SILENT) AND ITALY, NO SUPPORT WAS VOICED FOR US POSITION. MEETING ADJOURNED WITHOUT REACHING SOLUTION.

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11. DURING REMOTE SENSING DEBATE, NIGERIAN DEL (MACAULAY) SUPPORTED USSR POSITION WITH A VAGUE REFERENCE TO UNSPECIFIED GENERAL ASSEMBLY "DOCUMENT" DATED 1963 OR 1964 WHICH,

HE ASSERTED DEMONSTRATED THAT THE CONSENSUS PRINCIPLE WAS NEVER INTENDED TO BE AN ABSOLUTE IN APPLYING TO THE LSC. SAID DOCUMENT SUPPORTED ARGUMENT THAT IF AND WHEN CONSENSUS PRINCIPLE NO LONGER SERVED TO MOVE THE LSC FORWARD IN ITS WORK, CONSENSUS SHOULD GIVE WAY AND FORMAL GA RULES OF PROCEDURE SHOULD APPLY. INFERRED THAT U.S. OPPOSITION TO PERMANENT SOVEREIGNTY PRINCIPLE COULD BE RESOLVED BY TAKING A VOTE. IN THE WORKING GROUP, MEXICAN DEL (LOPEZ BASSOLS) MADE SIMILAR DENIGRATING REFERENCES TO CONSENSUS PROCEDURES AND SUGGESTED THAT LSC COULD MAKE MORE PROGRESS ON PREAMBLE PARAS ON BASIS OF UNSPECIFIED ACTION IN THE GENERAL ASSEMBLY (WHERE MINORITY WESTERN VIEWS WOULD FARE POORLY).

12. IN COURSE OF DBS DELIBERATIONS, BRAZILIAN DEL (LINDENBERG SETTE) DELIVERED HIMSELF OF A VERY UNHELPFUL

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STATEMENT TO THE EFFECT THAT WHATEVER LOFTY IDEALS MAY BE EXPRESSED, NO COUNTRY IN FACT ALLOWS ENTIRELY FREE FLOW OF INFORMATION OR IDEAS. IN A TRANSPARENT AND POINTED REFERENCE TO U.S., HE SAID THIS WAS TRUE EVEN OF "THE HOST COUNTRY," AND REFERRED WITHOUT ELABORATION TO THE DIFFERENCE BETWEEN PUBLIC STATEMENTS AND ACTUAL PRACTICE, NOTWITHSTANDING THAT CERTAIN TYPES OF INFORMATION ARE DISSEMINATED HERE WHICH WOULD BE CONSIDERED OFFENSIVE IN HIS COUNTRY.

13. START FYI: AT THE REQUEST OF CHAIRMAN WYZNER, USDEL (STEWART AND SCHAEFER) MET INFORMALLY BEFORE PLENARY WITH SOVIET DEL (MAIORSKI AND KOLOSSOV) TO EXPLORE POSSIBLE COMPROMISES ON DBS DRAFT PRINCIPLE 10 (SEE PARA 6). NO SUBSTANTIVE CHANGES WERE AGREED UPON. SOVDEL AGAIN URGED U.S. TO PROVIDE SOME INDICATION AS TO WHAT COMPROMISES U.S. IS PREPARED TO MAKE SO THAT THEY COULD URGE MOSCOW TO DO SAME. SOVDEL ALSO REPEATED WILLINGNESS TO GO AS FAR AS (BUT NO FARTHER THAN) CSCE FINAL ACT LANGUAGE. THEY FELT THAT AT THE VIENNA CONFERENCE THERE WOULD BE SUBSTANTIAL PRESSURE TO RESOLVE REMAINING DBS ISSUES. CHAIRMAN WYZNER AGREED AND SUGGESTED THAT USDEL AND SOVDEL MEET ONCE AGAIN BEFORE THE END OF THIS SESSION. SOVDEL THEN SUGGESTED THAT USDEL CONSULT WITH THEM IN VIENNA A FEW DAYS PRIOR TO CONFERENCE TO REVIEW OUR RESPECTIVE POSITIONS. USDEL INDICATED WILLINGNESS IN PRINCIPLE TO ATTEND SUCH MEETING AND WOULD CONFIRM THROUGH APPROPRIATE DIPLOMATIC CHANNELS, BUT SAID USDEL WAS IN NO POSITION TO INDICATE WHAT COMPROMISES, IF ANY, COULD BE MADE ON SUBSTANTIVE ISSUES. END FYI.

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